

Defendant

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

COMPLAINT AND DEMAND FOR JURY TRIAL

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a natural person residing Butler, Pennsylvania 16001.

4 6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

5 7. Defendant is a corporation that has its office located in Norwalk,
6 Connecticut 06851.

8 8. Defendant is a “person” as that term is defined by 47 U.S.C.
9 §153(39).

10 9. Defendant acted through its agents, employees, officers, members,
11 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
12 representatives, and insurers.

13 **FACTUAL ALLEGATIONS**

14 10. Plaintiff has a cellular telephone number that she has had for more
15 than one year.

16 11. Plaintiff has only used this number as a cellular telephone number.

17 12. The phone number has been assigned to a cellular telephone service
18 for which Plaintiff incurs a charge for incoming calls.

19 13. Plaintiff never provided permission to Defendant to call her cellular
20 telephone number or to contact her regarding any goods or services offered by
21 Defendant.

1 14. Beginning in January 2015, and continuing thereafter, Defendant
2 called Plaintiff on her cellular telephone.

3 15. When contacting Plaintiff on her cellular telephone, Defendant used
4 an automatic telephone dialing system and automatic and/or pre-recorded
5 messages.
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7 16. Plaintiff knows it is Defendant calling because the prerecorded
8 message states Defendant's name.

9 17. Defendant's telephone calls were not made for "emergency purposes."
10

11 18. Most recently, Defendant called Plaintiff's cellular telephone on April
12 18, 2015.

13 **DEFENDANT VIOLATED THE**
14 **TELEPHONE CONSUMER PROTECTION ACT**

15 19. Plaintiff incorporates the forgoing paragraphs as though the same were
16 set forth at length herein.

17 20. Defendant initiated multiple automated telephone calls to Plaintiff's
18 cellular telephone using a prerecorded voice.

19 21. Defendant initiated these automated calls to Plaintiff using an
20 automatic telephone dialing system.
21

22 22. Defendant's calls to Plaintiff were not made for emergency purposes.
23

24 23. Defendant's calls to Plaintiff, in and after January 2015, were not
25 made with Plaintiff's prior express consent.

1 24. Defendant's acts as described above were done with malicious,
2 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
3 under the law and with the purpose of harassing Plaintiff.

4 25. The acts and/or omissions of Defendant were done unfairly,
5 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
6 lawful right, legal defense, legal justification or legal excuse.

7 26. As a result of the above violations of the TCPA, Plaintiff has suffered
8 the losses and damages as set forth above entitling Plaintiff to an award of
9 statutory, actual and trebles damages.
10

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12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, SHANNON WOLFE, respectfully prays for a
14 judgment as follows:
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- 16 a. All actual damages suffered pursuant to 47 U.S.C. §
17 227(b)(3)(A);
- 18 b. Statutory damages of \$500.00 per violative telephone call
19 pursuant to 47 U.S.C. § 227(b)(3)(B);
- 20 c. Treble damages of \$1,500.00 per violative telephone call
21 pursuant to 47 U.S.C. §227(b)(3);
- 22 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
- 23 e. Any other relief deemed appropriate by this Honorable Court.
24
25

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, SHANNON WOLFE, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 06-09-15

KIMMEL & SILVERMAN, P.C.

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